

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MATT DINERSTEIN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

GOOGLE LLC, a Delaware limited liability
company, and THE UNIVERSITY OF
CHICAGO MEDICAL CENTER, an Illinois
not-for-profit corporation, THE
UNIVERSITY OF CHICAGO, an Illinois
not-for-profit corporation,

Defendants.

Case No. 1:19-cv-04311

Hon. Rebecca R. Pallmeyer

**DEFENDANT GOOGLE LLC’S MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT
(FED. R. CIV. P. 12(b)(1) AND 12(b)(6))**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendant Google LLC (“Google”) hereby moves to dismiss with prejudice all claims against Google (Plaintiff’s Fourth, Fifth, and Sixth Causes of Action) in Plaintiff Matt Dinerstein’s Amended Complaint (“Amended Complaint”). This Motion is based on the Motion, Google’s supporting Memorandum, Google’s Request for Judicial Notice, the supporting declaration of Whitty Somvichian, and the court records in this action. The grounds for the Motion are:

1. Plaintiff lacks standing under Article III of the United States Constitution, requiring this Court to dismiss the Amended Complaint for lack of jurisdiction under Federal Rule of Civil Procedure 12(b)(1). Plaintiff’s claims against Google are predicated, not on any

actual injury Plaintiff suffered, but on his speculative concerns about what Google could or might do at some unknown point in the future. This is not a constitutional injury-in-fact.

2. Plaintiff's claim for tortious interference with contract (Plaintiff's Fourth Cause of Action) fails because Plaintiff has not adequately pled that the University's transfer of patient data to Google for medical research violated the Healthcare Insurance Portability and Accountability Act ("HIPAA"), the Illinois Medical Patient Rights Act ("MPRA"), or any other contractual provision. Accordingly, Plaintiff cannot establish a contractual breach. Plaintiff's claim also fails for the independent reason that Plaintiff has not pled any facts demonstrating Google's wrongful intent.

3. Plaintiff's claim for intrusion upon seclusion (Plaintiff's Fifth Cause of Action) likewise fails because Plaintiff has not alleged facts to show (1) that the alleged intrusion was "unauthorized" under HIPAA, (2) that there was an alleged intrusion into "private" matters that would be "facially revealing, compromising, or embarrassing," (3) that Google engaged in "offensive prying," and (4) that Plaintiff suffered an injury.

4. Plaintiff's claim for unjust enrichment (Plaintiff's Sixth Cause of Action) fails because Plaintiff has not established that Google breached any duty it owed him, or that Google improperly retained a benefit to his detriment.

Further support for each of these arguments is set forth in Google's accompanying Memorandum of Points and Authorities in Support of Motion to Dismiss Plaintiff's Amended Complaint.

Dated: November 7, 2019

Respectfully submitted,

/s/ Michael G. Rhodes

Michael G. Rhodes

One of the Attorneys for Defendant
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CERTIFICATE OF SERVICE

I, Michael G. Rhodes, an attorney, certify that the foregoing **Motion to Dismiss Plaintiff's Amended Complaint** was filed through the Court's CM/ECF system on November 7, 2019 which automatically provides notification of such filing to all registered users.

/s/ Michael G. Rhodes

Michael G. Rhodes

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